

5.2 WASTE DISCHARGE PROHIBITIONS

The following is a listing of waste discharge prohibitions applicable within the Lake Tahoe Hydrologic Unit (Figure 5-3). These include both regionwide prohibitions and prohibitions specifically applicable to the Lake Tahoe Hydrologic Unit (HU). The texts of prohibitions and exemption criteria applicable to portions of the Truckee River HU within the Tahoe Regional Planning Agency's jurisdiction are also included. "Waste" is defined to include any waste or deleterious material, including, but not limited to, waste earthen materials (such as soil, silt, sand, clay, rock, or other organic or mineral material) and any other waste as defined in the California Water Code Section 13050(d). A short summary of these prohibitions (Table 5.8-1) is included with the discussion of development restrictions, below, for reference.

Regionwide Prohibitions

1. The discharge of waste which causes violation of any narrative water quality objective contained in this Plan, including the Nondegradation Objective, is prohibited.
2. The discharge of waste which causes violation of any numeric water quality objective contained in this Plan is prohibited.
3. Where any numeric or narrative water quality objective contained in this Plan is already being violated, the discharge of waste which causes further degradation or pollution is prohibited.
4. Direct discharges of wastes, including sewage, garbage, and litter, into surface waters of the Region are prohibited.

Regionwide Exemption Criteria for Restoration Projects

The Regional Board encourages restoration projects that are intended to reduce or mitigate existing sources of soil erosion, water pollution, or impairment of beneficial uses. For waste earthen materials

discharged as a result of restoration projects, exemptions to the prohibitions above, and all other prohibitions contained in this Basin Plan, may be granted by the Regional Board whenever it finds that a specific project meets all of the following criteria:

1. The project will eliminate, reduce, or mitigate existing sources of soil erosion, water pollution, and/or impairment of beneficial uses of water, *and*
2. There is no feasible alternative to the project that would comply with the provisions of this Basin Plan, precluding the need for an exemption, *and*
3. Land disturbance will be limited to the absolute minimum necessary to correct or mitigate existing sources of soil erosion, water pollution, and/or impairment of beneficial uses of water, *and*
4. All applicable Best Management Practices and mitigation measures have been incorporated into the project to minimize soil erosion, surface runoff, and other potential adverse environmental impacts, *and*
5. The project complies with all applicable laws, regulations, plans, and policies, *and*
6. Additional exemption criteria apply to restoration projects proposed within the Lake Tahoe Basin. To the extent that they are more stringent, the Lake Tahoe Basin criteria supersede the regionwide criteria, above.

Considerations for Water Reclamation Projects

The Regional Board encourages the reuse of treated domestic wastewater, and desires to facilitate its reuse (see Section 4.4). The need to develop and use reclaimed water is one factor the Regional Board will evaluate when considering exemption requests to waste discharge prohibitions. (For special water reclamation provisions applicable in the Lake Tahoe Basin, see 5.c. below.)

Discharge Prohibitions for the Lake Tahoe Hydrologic Unit (HU)

1. The discharge of wastes from boats, marinas, or other shoreline appurtenances to surface waters of the Lake Tahoe HU is prohibited.
2. The discharge of any waste or deleterious

Ch. 5, LAKE TAHOE BASIN

material to surface waters of the Lake Tahoe HU is prohibited.

3. The discharge of waste earthen material or of any other waste as defined in Section 13050(d) of the California Water Code which would violate the water quality objectives of this plan, or otherwise adversely affect the beneficial uses of water designated by this plan, is prohibited.
4. The discharge of treated or untreated domestic sewage, industrial waste, garbage or other solid wastes, or any other deleterious material to the surface waters of the Lake Tahoe Basin is prohibited. (Also see Sections 4.1 and 4.4 of this plan.)
5. Prohibition 4 above applies to surface waters. The following language from the Porter-Cologne Act also prohibits the disposal of municipal wastewater to ground waters and requires export of sewage from the Lake Tahoe Basin, with limited exceptions:
 - a. *"Notwithstanding any other provision of law, upon any district in the Lake Tahoe Basin providing in any area of the district a sewer system and treatment facilities sufficient to handle and treat any resultant waste and transportation facilities sufficient to transport any resultant effluent outside the Lake Tahoe Basin, the further maintenance or use of cesspools or other means of waste disposal in such area is a public nuisance and the district shall require all buildings from which waste is discharged to be connected with the sewer system within a period of not less than 90 days from the completion of such system and facilities."* (Porter-Cologne Act § 13950, effective January 1, 1970)
 - b. *"Notwithstanding any other provision of law, on or after January 1, 1972, waste from within the Lake Tahoe watershed shall be placed only into a sewer system and treatment facilities sufficient to handle and treat any such waste and transportation facilities sufficient to transport any resultant effluent outside the Lake Tahoe watershed, except that such waste may be placed in a holding tank which is pumped and*

transported to such treatment and transportation facilities.

As used in this section 'waste' shall not include solid waste refuse.

The further maintenance or use of cesspools, septic tanks, or other means of waste disposal in the Lake Tahoe watershed on or after January 1, 1972, by any person, except as permitted pursuant to this section, is a public nuisance. The occupancy of any building from which waste is discharged in violation of this section is a public nuisance, and an action may be brought to enjoin any person from occupying any such building.

This section shall not be applicable to a particular area of the Lake Tahoe watershed whenever the Regional Board for the Lahontan Region finds that the continued operation of septic tanks, cesspools, or other means of waste disposal in such area will not, individually or collectively, directly or indirectly, affect the quality of the waters of Lake Tahoe and that the sewerage of such area would have a damaging effect upon the environment.

This section shall not be applicable to any area or areas within the Fallen Leaf Lake watershed in the event the Regional Board for the Lahontan Region finds that with the export of toilet wastes by single family residences, or with the export of toilet and kitchen wastes with respect to any commercial properties, the continued use of septic tanks, cesspools, or other means of waste disposal in such area or areas for the treatment and disposal of the remaining wastes, will not, individually or collectively, directly or indirectly, affect the quality of the waters of Lake Tahoe, and that the sewerage of such area or areas would have a damaging effect upon the environment.

This section shall not affect the applicability of Section 13950." (CA Water Code § 13951, effective September 2, 1969; amended 1975)

5.2, Waste Discharge Prohibitions

(Most development within the Fallen Leaf Lake watershed is now sewered. See the section of this Chapter on wastewater treatment, export, and disposal for additional discussion of Regional Board exceptions for wastewater disposal by unsewered structures in remote areas of the Fallen Leaf Lake watershed, and in some other parts of the Lake Tahoe Basin. See Appendix B for copies of Orders 6-70-48, 6-71-17, and 6-74-139 regarding sewage export variances for the Lake Tahoe Basin.)

- c. *"Notwithstanding the provisions of Sections 13950 and 13951, water containing waste which has been placed in a sanitary sewer system for treatment and transportation outside of the Lake Tahoe Basin may be reclaimed in a pilot reclamation project to demonstrate the technical and environmental feasibility of using such water for beneficial purposes within the Lake Tahoe Basin in accordance with the provisions of the Water Reclamation Law...and the provisions of this section.*

Prior to the initiation of any pilot reclamation project within the Lake Tahoe Basin, the claimer or reuser shall submit the project with technical data to the Regional Board for the Lahontan Region for approval. Only those projects submitted before January 1, 1984, shall be considered. The technical data submitted shall demonstrate that such pilot reclamation project will not, individually or collectively, directly or indirectly, adversely affect the quality of the waters of Lake Tahoe. The intended operational life of the project shall be at least 10 years.

No pilot reclamation project shall be initiated unless and until such Regional Board approves the project, and finds that such pilot reclamation project or projects will not, individually or collectively, directly or indirectly, adversely affect the quality of the waters of Lake Tahoe. The Regional Board for the Lahontan Region shall place conditions on any approved project to include specification of maximum project size. The Regional Board for the Lahontan

Region may suspend or terminate an approved project for cause at any time." (Porter-Cologne Act § 13952, added in 1978.)

(Only one reclamation proposal, from the South Tahoe Public Utility District, was received by the January 1, 1984 deadline.)

6. The prohibition in Porter-Cologne Act § 13951, cited above, excluded discharges of solid waste. The State Board adopted the following additional prohibition in 1980:

The discharge of garbage or other solid waste to lands within the Lake Tahoe Basin is prohibited.

The State Board also stated that "No discharge of industrial waste within the Lake Tahoe Basin should be allowed."

7. The discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand and other organic and earthen materials, to the surface waters of the Lake Tahoe Basin, is prohibited.
8. The discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand and other organic and earthen materials to lands below the highwater rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe is prohibited.
- (See the sections of this Chapter on 100-year floodplain protection, shorezone protection, and development restrictions for discussion of the applicability of and exemption criteria for this prohibition.)
9. The threatened discharge, attributable to human activities, of solid or liquid waste materials including soil, silt, clay, sand, and other organic and earthen materials, due to the placement of said materials below the highwater rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe, is prohibited.

(See the sections of this Chapter on 100-year floodplain protection, shorezone protection, and development restrictions for discussion of the applicability of and exemption criteria for this

Ch. 5, LAKE TAHOE BASIN

prohibition.)

10. The discharge or threatened discharge, attributable to new pier construction, of solid or liquid wastes, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral, or earthen materials, to significant spawning habitats or to areas immediately offshore of important stream inlets in Lake Tahoe is prohibited.

(The applicability of this prohibition is discussed in the subsection on “Piers” within the section of this Chapter on water quality problems related to outdoor recreation.)

The applicability of, and exemption criteria for, Prohibitions 11-14 below are discussed in the sections of this Chapter on Stream Environment Zone protection, development restrictions, and remedial projects and offset. Definitions of terms used in these prohibitions are given following Prohibition 14.

11. The discharge or threatened discharge, attributable to development of any new subdivision, of solid or liquid waste, including soil, silt, sand, clay, or other organic or earthen material, to ground or surface waters in the Lake Tahoe Basin is prohibited.
12. The discharge or threatened discharge, attributable to new development in Stream Environment Zones or which is not in accordance with land capability, of solid or liquid waste, including soil, silt, sand, clay, or other organic or earthen material, to ground or surface waters in the Lake Tahoe Basin is prohibited.
13. The discharge or threatened discharge, attributable to new development in Stream Environment Zones, of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral or earthen materials, to Stream Environment Zones in the Lake Tahoe Basin is prohibited.
14. The discharge or threatened discharge attributable to new development not in accordance with the offset policy set by the *Lake*

Tahoe Basin Water Quality Plan and/or the offset requirements summarized in the section of this Chapter entitled “Remedial Programs and Offset,” of solid or liquid waste, including soil, silt, sand, clay or other organic or earthen material, to ground or surface waters in the Lake Tahoe Basin is prohibited.

Prohibitions 11 through 14 above shall not apply to any structure the Regional Board approves as reasonably necessary:

- for erosion control projects, habitat restoration projects, wetland rehabilitation projects, Stream Environment Zone restoration projects, and similar projects, programs, and facilities,
- to carry out the 1988 TRPA regional transportation plan,
- for health, safety, or public recreation, or
- for access across SEZs to otherwise buildable parcels.

Approvals of exemptions shall include the specific findings set forth in the section of this Chapter on development restrictions.

As used in Prohibitions 11 through 14, a discharge is “ATTRIBUTABLE” to development of the type addressed by a discharge prohibition listed above if and only if that development results in a discharge in excess of that which would result from development which is not of the type addressed by the discharge prohibition, and is otherwise in conformance with the other control measures set forth in Chapters 4 and 5 of the *Water Quality Control Plan for the Lahontan Region*, and applicable requirements of any public agency.

“NEW DEVELOPMENT” as used in Prohibitions 11 through 14, above, means the construction of any structure, including any commercial or residential building, road, driveway or other impervious surface, or any other construction activity resulting in permanent soil disturbance, which had not received all necessary permit approvals before adoption of these prohibitions (before October, 1980). “New Development” does not include maintenance or repair of an existing structure or the replacement of

5.2, Waste Discharge Prohibitions

any existing structure with another structure on the same parcel of no greater land coverage. (Relocation of land coverage on the same parcel is subject to specific relocation criteria.)

“NEW DEVELOPMENT NOT IN ACCORDANCE WITH LAND CAPABILITY,” as used in Prohibition 12 above, means new development which results in an impervious surface or other land disturbance in excess of the allowable percentage of impervious cover set forth in R. Bailey, *Land Capability Classification of the Lake Tahoe Basin, California-Nevada* (1974). In the case of development within an existing subdivision where all necessary subdivision roads and utilities have been constructed, development within a particular parcel shall not be considered in excess of allowable coverage where:

- Land coverage or land disturbance within that particular lot or parcel does not exceed allowable coverage; or
- Coverage has been allocated among all lots or parcels within the subdivision so that total land coverage or land disturbance within the subdivision—taking into account all roads, utilities, existing structures, and disturbed areas, allocations to vacant lots or parcels, and areas dedicated to open space—does not exceed allowable coverage,
- Coverage is allocated on an areawide basis within a redevelopment area, as defined by an approved redevelopment plan meeting the requirements of California law.
- Maximum coverage is in conformance with the requirements of the TRPA Regional Plan (TRPA 1987) and the revised 208 Plan (TRPA 1988), including the coverage rules set forth later in this Chapter.

“NEW DEVELOPMENT NOT IN ACCORDANCE WITH THE OFFSET POLICY/OFFSET REQUIREMENTS” as used in Prohibition 14, above, means any new development for which mitigation work has not been performed or for which water quality mitigation fees have not been paid as required by the TRPA Code of Ordinances, Chapter 82.

“NEW SUBDIVISION,” as used in Prohibition 11

above, means any new development involving the division of any lot or parcel into two or more lots or condominiums which: “(1) results in impervious surface or other soils disturbance in excess of that which would be allowable under these prohibitions or any applicable land use ordinance if the lot or parcel were not divided; or (2) which would create new development potential inconsistent with the goals and policies of the TRPA Regional Plan.” Examples of land divisions which do not constitute new subdivisions under the revised 208 Plan are listed in the section of this Chapter on development restrictions, below. “NEW SUBDIVISION,” as used in Prohibition 11 above, also means any housing development involving construction of new roads and utilities which has the same type of water quality impacts as a new lot and block subdivision, even if the property remains under single ownership.

“STATE BOARD” means the California State Water Resources Control Board.

“REGIONAL BOARD” means the California Regional Water Quality Control Board, Lahontan Region.

“STREAM ENVIRONMENT ZONE,” as used in Prohibitions 12 and 13, above, means any areas which can be identified as a “stream environment and related hydrologic zone” using the procedures set forth in the revised 208 Plan (TRPA 1988, Vol. III, pages 10-15). (The criteria for identification of Stream Environment Zones and related setbacks are summarized in the section of this Chapter on resource protection and restoration.)

Discharge Prohibitions for the Portions of the Truckee River Hydrologic Unit Affected by the TRPA 208 Plan

In addition to the regionwide discharge prohibitions above, the Lahontan Regional Board implements the following discharge prohibitions and exemption criteria within the Truckee River HU between the Lake Tahoe Dam and the confluence of the River with Bear Creek. TRPA implements a different set of land use restrictions and exemption criteria for SEZs and 100-year floodplains in this area.

The following prohibition language has been edited to isolate language applicable to the portion of the

Ch. 5, LAKE TAHOE BASIN

Truckee River HU within TRPA's jurisdiction, and to provide clarification. Section 4.1 of this Basin Plan contains the complete prohibition language applicable to the entire Truckee River HU (Figure 5-4).

1. The discharge of wastes from boats, marinas or other shoreline appurtenances to surface waters of the Truckee River HU is prohibited.
2. The discharge of any waste or deleterious material to surface waters of the Truckee River HU is prohibited.
3. The discharge of any waste or deleterious material in the Truckee River HU, which would cause or threaten to cause violation of any water quality objective contained in this plan, or otherwise adversely affect or threaten to adversely affect, the beneficial uses of water set forth in this Plan, is prohibited.
4. The discharge of treated or untreated domestic sewage, industrial waste, garbage or other solid wastes, or any other deleterious material to surface waters of the Truckee River HU is prohibited.
5. Discharge of wastewater or wastewater effluent resulting in an average total nitrogen concentration in the (undiluted) wastewater exceeding 9-mg/l entering the Truckee River or any of its tributaries above the Boca Reservoir outlet confluence is prohibited.
6. Further discharge from the secondary wastewater treatment facilities of the Tahoe City Public Utility District and North Tahoe Public Utility District is prohibited (Figure 5.2-1).
7. No discharge of domestic wastewater to individual facilities such as septic tank-leachfield systems shall be permitted for any subdivisions (as defined by the Subdivision Map Act, Government Code § 66424) which did not discharge prior to October 16, 1980. This prohibition shall apply to all areas where underlying ground waters are tributary to the Truckee River or any of its tributaries above the confluence of the Boca Reservoir Outlet and the Truckee River (Figure 5.2-2). **Note:** TRPA's land

use restrictions against new subdivisions, adopted in 1987, apply to the portion of the Truckee River HU within its jurisdiction. TRPA also requires new development to be served by sewers.

An exemption to this prohibition may be granted whenever the Regional Board finds (based on geologic and hydrologic evidence presented by the proposed discharger) that operation of individual domestic wastewater facilities in a particular area will not, individually or collectively, directly or indirectly, adversely affect water quality or beneficial uses of water. (See Appendix B for a copy of Order 6-81-7 which describes a point system used by the Regional Board for evaluating requests for exemptions to this prohibition.)

There are some vacant lots within the portion of the Truckee River HU where the 208 Plan applies which were subdivided prior to the effective date of Prohibition 3, above. The exclusion of these lots from Prohibition 3 is not a mandate for buildout of these lots using septic systems. TRPA requires that new development within its jurisdiction be served by a sewer system.

8. Once sewer lines are installed in a subdivision or area, discharge of wastes or wastewater to individual systems (such as septic tank-leachfield systems) from all new dwellings constructed or installed within 200 feet of the sewer line shall be prohibited.
9. Continued onsite discharge of septic tank effluent from structures within 200 feet of any existing sewer line connecting to the Tahoe-Truckee Sanitation Agency (TTSA), including the Truckee River Interceptor, where a septic tank-leachfield system is found to function improperly at any time, and/or where septic tank-leachfield construction is found to be in violation of the minimum criteria listed in Chapter 4 of this Plan, is prohibited.
10. The discharge, or threatened discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand and other organic and earthen materials to lands within the 100-year floodplain of the Truckee

5.2, Waste Discharge Prohibitions

River or any tributary to the Truckee River is prohibited.

The following are Regional Board exemption criteria for this discharge prohibition. Applicants should be aware that TRPA has separate exemption criteria for its land use restrictions on Stream Environment Zone and 100-year floodplain disturbance.

The Regional Board may grant exemptions to Prohibition 10 above for the repair or replacement of existing structures, provided that the repair or replacement does not involve the loss of additional floodplain area or volume. For example, if a building or residence is damaged or destroyed by fire, flooding, etc., the pre-existing structure could be repaired or a structure of identical or smaller size could be rebuilt on the same site. Prior to granting any such exemption, the Regional Board shall require demonstration by the proposed discharger that all applicable Best Management Practices and mitigation measures have been incorporated into the project to minimize any potential soil erosion and/or surface runoff problems.

The Regional Board may also grant exemptions to Prohibition 10 above for the following categories of new projects:

- (1) Projects solely intended to reduce or mitigate existing sources or erosion or water pollution, or to restore the functional value to previously disturbed floodplain areas
- (2) Bridge abutments, approaches, or other essential transportation facilities identified in an approved county general plan
- (3) Projects necessary to protect public health or safety or to provide essential public services
- (4) Projects necessary for public recreation
- (5) Projects that will provide outdoor public recreation within portions of the 100-year floodplain that have been substantially altered by grading and/or filling activities which occurred prior to June 26, 1975 (the effective date of Prohibition 10 above).

An exemption to Prohibition 10 above may be allowed for a specific new project only when the Regional Board makes all of the following findings:

- The project is included in one or more of the five categories listed above
- There is no reasonable alternative to locating the project or portions of the project within the 100-year floodplain
- The project, by its very nature, must be located within the 100-year floodplain. (This finding is not required for those portions of outdoor public recreation projects to be located in areas that were substantially altered by grading and/or filling activities before June 26, 1975.) The determination of whether a project, by its very nature, must be located in a 100-year floodplain shall be based on the kind of project proposed, not the particular site proposed. Exemptions for projects such as recreational facility parking lots and visitor centers, which by their very nature do not have to be located in a 100-year floodplain, will not be allowed in areas that were not substantially altered by grading and or filling prior to June 26, 1975.
- The project incorporates measures which will insure that any erosion and surface runoff problems caused by the project are mitigated to levels of insignificance.
- The project will not, individually or cumulatively with other projects, directly or indirectly, degrade water quality or impair beneficial uses of water.
- The project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the ground water flow treatment capacity from existing conditions. This shall be ensured by restoration of previously disturbed areas within the 100-year floodplain within the project site, or by enlargement of the floodplain within or as close as practical to the project site. The restored, new or enlarged floodplains shall

Ch. 5, LAKE TAHOE BASIN

be of sufficient area, volume, and wetland value to more than offset the flood flow attenuation capacity, surface flow treatment capacity, and ground water flow treatment capacity lost by construction of the project. This finding will not be required for: (1) essential public health or safety projects, (2) projects to provide essential public services for which the Regional Board finds such mitigation measures to be infeasible because the financial resources of the entity proposing the project are severely limited, or (3) projects for which the Regional Board finds (based on evidence presented by the proposed discharger) that the project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the ground water flow treatment capacity from existing conditions.

Definitions:

“Necessary” shall mean when the appropriate government agency findings that a project is needed to protect public health and safety, to provide essential service, or for public recreation.

“Public recreation” shall mean a project which can be enjoyed by an entire community or neighborhood, or a considerable number of persons. In previously altered floodplain areas (defined as floodplain areas where soils, vegetation and hydrology are found by the Regional Board to have been substantially altered by human activities which occurred prior to June 26, 1975) “public recreation” is limited to public outdoor recreation facilities and/or activities such as hiking trails, bike paths, and similar recreation facilities/activities which do not involve construction of buildings or similar structures.